

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE DEPARTMENT OF LABOR AND INDUSTRY

In the Matter of the Residential Building
Contractor License of Steven R.
Meiers, d/b/a S&R Roofing

**FINDINGS OF FACT,
CONCLUSIONS AND
RECOMMENDATION**

This matter came on for a Prehearing Conference before Administrative Law Judge Richard C. Luis on November 24, 2010 at the Office of Administrative Hearings in St. Paul.

Michael J. Tostengard, Assistant Attorney General, appeared on behalf of the Department of Labor and Industry (Department). There was no appearance by or on behalf of Respondent Steven R. Meiers, d/b/a S&R Roofing. The Respondent did not request a continuance or contact the Administrative Law Judge for other relief. The Department requested a default Recommendation.

STATEMENT OF THE ISSUES

1. Did the Respondent fail to notify the Department of outstanding judgments, in violation of Minn. Stat. §§ 326B.805, subd. 5(c) and 326B.84 (5)?
2. Did Respondent fail to obtain required inspections, thereby engaging in a fraudulent or dishonest practice in violation of Minn. Stat. §§ 326B.082, subd. 11(b)(8) and 326B.84(2) and Minn. Rule 2891.0040, subp. 1H?
3. Did Respondent fail to satisfy a judgment entered against it, thereby violating Minn. Stat. §§ 326B.082, subd. 11(b)(9) and 326B.84(15)?
4. In failing to comply with numerous requests for information from the Department, did the Respondent violate Minn. Stat. §§ 326B.082, subd 2(b) and 326B.84(16)?

Based on the files and proceedings herein, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. On September 28, 2010, the Department mailed the Notice of and Order for Hearing and Order for Prehearing Conference in this matter to the Respondent at the office of his attorney of record.

2. The Notice of and Order for Hearing and Prehearing Conference noted, at page four:

1. Respondent's failure to appear at the prehearing conference or hearing may result in a finding that Respondent is in default, that the Department's allegations contained in this Statement of Charges may be accepted as true, and that its proposed disciplinary action may be upheld.

The Notice also specified that requests to delay the Prehearing Conference must be made to the Administrative Law Judge.

3. The Respondent failed to appear at the Prehearing Conference without obtaining prior approval from the Administrative Law Judge, did not file a Notice of Appearance, and did not request a continuance or any other relief.

4. Because the Respondent failed to appear at the Prehearing Conference or contact the Administrative Law Judge prior to the Prehearing Conference, the Respondent is in default.

5. Pursuant to Minn. Rule 1400.6000, the allegations contained in the Notice of and Order for Hearing, Order for Prehearing Conference, Order to Show Cause and Statement of Charges in this matter are taken as true and incorporated by reference into these Findings of Fact.

Based on the Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

1. The Administrative Law Judge and the Commissioner of Labor and Industry are authorized to consider the charges against the Respondent under Minn. Stat. §§ 1450, 45.027 and 326B.84.

2. The Respondent received proper and timely notice of the allegations against him and of the time and place of the Prehearing Conference. Therefore, this matter is properly before the Administrative Law Judge.

3. The Department has complied with all procedural requirements.

4. Under Minn. Rule 1400.6000, a contested case may be decided adversely against a party who defaults. On default, the allegations of and the issues set out in the

Notice of and Order for Hearing, Prehearing Conference, or other pleading may be taken as true or deemed proved without further evidence. The Respondent is in default in this matter as a result of failure, without prior consent of Administrative Law Judge, to appear at the Prehearing Conference.

5. The Respondent has violated Minn. Stat. §§ 326B.082, subd. 11(b)(8), 326B.802, subd. 2(b), 326B.805, subd. 5(c), 326B.84(2), 326B.84(5), 326B.84(15), and 326B.84(16) and Minn. Rule 2891.0040, subp. 1H.

6. Disciplinary action against the Respondent is in the public interest within the meaning of Minn. Stat. § 45.027, subd. 7.

Based on the Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS RECOMMENDED that the Commissioner of Labor and Industry take appropriate disciplinary action against the Residential Building Contractor License of Stephen R. Meiers, d/b/a S&R Roofing.

Dated: December 21, 2010

/s/ Richard C. Luis

RICHARD C. LUIS

Administrative Law Judge

Reported: Default

NOTICE

This report is a recommendation, not a final decision. The Commissioner of the Department of Labor and Industry will make the final decision after a review of the record. The Commissioner may adopt, reject or modify the Findings of Fact, Conclusions, and Recommendations. Under Minn. Stat. § 14.61, the final decision of the Commissioner shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Commissioner. Parties should contact Cynthia Valentine, Acting Commissioner, Attn: Wendy Willson Legge, Director of Legal Services, Minnesota Department of Labor and Industry, 443 Lafayette Road, St. Paul, MN 55155, to learn the procedure for filing exceptions or presenting argument.

If the Commissioner fails to issue a final decision within 90 days of the close of the record, this report will constitute the final agency decision under Minn. Stat. § 14.62, subd. 2a. In order to comply with this statute, the Commissioner must then return the

record to the Administrative Law Judge within 10 calendar days to allow the Judge to determine the discipline to be imposed. The record closes upon the filing of exceptions to the report and the presentation of argument to the Commissioner, or upon the expiration of the deadline for doing so. The Commissioner must notify the parties and the Administrative Law Judge of the date on which the record closes.

Under Minn. Stat. § 14.62, subd. 1, the agency is required to serve its final decision upon each party and the Administrative Law Judge by first class mail or as otherwise provided by law.